

The Imprisonment of Martin Harris in 1833

Mark B. Nelson and Steven C. Harper

With editorial work on Joseph Smith's legal papers in full swing,¹ the attention of several attorneys, historians, archivists, and law students has turned increasingly to American legal culture in the 1820s through the 1840s and specifically to cases involving Latter-day Saints. At the same time, Mark Nelson recently discovered court documents of a trial involving Martin Harris in Susquehanna County, Pennsylvania. These brief documents add considerable information to an otherwise little-known chapter in the life and ministry of Martin and Emer Harris. Readers also learn about early Mormon missionary adventures generally.

These documents shed light on an incident in the life of Martin Harris that biographers previously have been able only to hint at. Harris family tradition recalls vaguely that Martin “was imprisoned for his forthrightness in proclaiming the restored gospel.”²

It has long been known that Martin Harris—Joseph Smith's early benefactor, scribe, and financier of the Book of Mormon—drew his brother Emer into Mormonism at an early date, and that in 1832–33 the two served together as missionaries for nearly a year among Emer's “old neighbors” in southern New York and northeastern Pennsylvania. In May 1833 as their labors neared an end, Emer wrote to his wife in Ohio that they had “traveled much & Preached much. Eighty two have been baptised and many more have believed. We find no end to the call for our labors.”

1. Joseph Smith Papers, Legal Series, forthcoming.

2. Emer Harris to Mr. George James, May 7, 1833, L. Tom Perry Special Collections, Harold B. Lee Library, Brigham Young University, Provo, Utah, quoted in Richard Lloyd Anderson, *Investigating the Book of Mormon Witnesses* (Salt Lake City: Deseret Book, 1981), 110.

Mark B. Nelson

As a coordinator in the Church Educational System, I was responsible for central and northeast Pennsylvania, including the Harmony area. On one occasion I visited the Susquehanna County courthouse. I had read of Martin Harris's arrest and wondered if any record existed. In a dusty, damp courthouse basement I found all the pertinent documents associated with his arrest in 1832. It was thrilling to find these documents, which contained the signature of Martin Harris and had likely not been read since they had originally been filed. Although I could not purchase them, I was allowed to make facsimiles of them, which are now being published.

As was the case with so many early Mormon missionaries, Emer noted both the “many kind friends who have administered unto my necesetys” and the “many apposers & bitter Enimyees.” The brothers would have returned home by now, Emer wrote, but were delayed due to Martin’s January 24, 1833, imprisonment “on a fals[e] charge of slander.”³ (When this letter was originally transcribed by Harris biographers, Emer’s writing was rendered “a fals charge of *standen*.”⁴ Anyone who works with paleography and transcription can make that mistake easily without the aid of external evidence. The discovery of these court records provides just such evidence. The charge was *slander*, so close and yet so far from *standen*.)

The success and opposition faced by the Harris brothers were related. As their preaching took root among citizens of Springville Township in Susquehanna County, Pennsylvania, opposition escalated. This trend included the events that led to Martin Harris’s imprisonment. On November 1, 1832, he preached to a group of townsfolk, including a single woman named Eliza Ann Winters. She later told the court that Martin loudly

3. Emer Harris to Mr. George James or Mrs. Parna Harris, May 7, 1833, Perry Special Collections.

4. Madge Harris Tuckett and Belle Harris Wilson, *The Martin Harris Story: With Biographies of Emer Harris and Dennison Lott Harris* (Provo, Utah: Vintage, 1983), 122.

denounced her. Picking Winters out of the crowd, Martin allegedly said: “She has had a bastard child.”⁵

Whatever the truth of the matter, Winters sued Martin Harris for slander. In her complaint to the court she testified that Martin’s claim of fornication was intended to “render her infamous and scandalous,” soiling her “good name.” She sued for restoration of her reputation and punitive damages of a thousand dollars. Winters filed her suit at the county courthouse in Montrose on December 5, 1832, through an associate named Benjamin Comfort. At that time women could not file suits in their own names, so Comfort filed the suit officially. Accordingly, Sheriff Joseph Williams arrested Martin on January 23, 1833, and imprisoned him in Montrose to await a court appearance. In the twenty-first century these would be classified as civil charges and not subject to imprisonment, but in the 1830s both civil and criminal charges could result in imprisonment prior to posting bail. Bail was set at one thousand dollars, the amount of the suit, ensuring satisfaction if the court found for the defendant. Neither of the Harris brothers had that amount on hand.

Martin first appeared before the local judge on February 1, 1833, when his bond was set. Martin would have remained in prison until his trial if not for Larson and Ezra Kingsley of nearby Bridgewater. They posted his bail on February 7. It is unclear whether the Kingsleys were sympathetic to Harris because of his Latter-day Saint religion or for some other reason. The Kingsleys are not mentioned specifically in records of local converts. Regardless, their charity was undoubtedly appreciated by the Harrises. It enabled Martin to continue preaching the restored gospel while he awaited trial, initially scheduled for April 30. However, the court postponed the trial date to September 3. Martin and Emer returned to Ohio by summer 1833, so Martin left an affidavit with the court. Apparently his absence did not hinder his defense. Judgment was “entered against the plaintiff.”⁶ Winters, it appears, was either “infamous and scandalous” before Martin denounced her, or could not convince the court that his words were legally slanderous.

5. Miss Winters, Affidavit, Warrant issued December 5, 1832, and recorded in court proceedings April 30, 1833, as recorded in Court Records found in Archives of Common Pleas 1832–33, Montrose, Pa., under “Harris, M”; a facsimile copy is in possession of Mark B. Nelson.

6. The Sheriff’s bill, arrest warrant, and Martin’s signed affidavit are all in the Susquehanna County Court records found in Archives of Common Pleas 1832–33, Montrose, Pa., under “Harris, M” and a copy of all three documents is held by Mark B. Nelson.

The Documents

Prothny⁷ B. T. Casey[?] [illegible] Atty.
Susquehanna County, ss.

The Commonwealth of Pennsylvania.
To the Sheriff of Susquehanna County==Greeting:
YOU are hereby commanded that you take

Martin Harris _____

so that you have him before our Judge of the Court of Common pleas, to be holden for the said County, at Montrose, on the first Monday of February—next, there to answer Eliza Ann Winters by her next friend Benjamin Comfort_____

a plea of trespass on the Case, for slanderous words—
Damages one thousand dollars _____

Thereof fail not. Witness, the Honorable Edward Harick, President of our said Court, the fifth – day of December, —in the year of our Lord one thousand eight hundred and thirty two.

Asa Dimock [illegible] Prothonotary.

Susquehanna County P-
Eliza Ann Winters by her next friend Benjamin Comfort
vs.

Martin Harris

Issue capias in case⁸
For slanderous words
Returnable to next term— Damages
\$1000 [illegible word(s)]

Jan. 24. 1833
To Asa Dimock jp esq.⁹

7. Abbreviation for prothonotary, the principal clerk in certain courts of law.

8. The Latin word *capias* (that you take) is a writ ordering the sheriff to take the body of the defendant to answer the plaintiff in a plea. The amount of the suit is noted on the writ.

9. Justice of the Peace, Esquire.

No 39

Feb 7—1833

Eliza Ann Winters by her next friend Benjamin Comfort vs Martin Harris

Precipe for Capias¹⁰

Filed Jan. 24, 1833

No. 39 Feb. 7, 1833

Eliza Ann Winters

vs.

Martin Harris

[illegible]

B.T. Case, Atty

Filed Feb. 9[?]-1833

Susquehanna County P-

N^o of February term

A.D. 1833_

Martin Harris late of said county, yeoman, was attached to answer Eliza Ann Winters, a minor under the age of twenty one years, who sued by her next friend Benjamin Comfort, of a plea of trespass on the case, &. And Whereupon the said Eliza Ann Winters, by Benjamin Comfort, her next friend, complain that whereas she the said Eliza Ann Winters is a good, true, honest, chaste and faithful citizen of the commonwealth of Pennsylvania, and of good name, fame[?] behavior and character, and so amongst all her neighbors and others to whom she was known deservedly hath been esteemed and taken, and as such from the time of her nativity hitherto hath behaved and carried herself, and during all that time hath been held and esteemed of a good name, fame[?], behavior and character and free from all hint[?] of fornication and from all suspicion of committing such crime. By reasons whereof the said Eliza Ann Winters the

10. The Latin word *precipe* (give an order) is a writ used to commence an action. It commanded the defendant to do what was ordered or to appear and show why he or she had not followed orders. Precipe is also an order that commands the clerk of a court to issue a formal writ of execution directing the enforcement of a judgment already rendered or commanding a public officer to seize the defendant's property to satisfy the debt.

favor, good will and esteem of all her neighbors and others to whom she was known deservedly did acquire and gain. Nevertheless the said Martin Harris not being ignorant of the premises, but continuing[?] and maliciously intending, the said Eliza Ann Winters not only of her good name, credit and esteem to deprive, but also to render her infamous and scandalous among her neighbors aforesaid. And also the said Eliza Ann Winters into danger of the penalties of the law against fornicators made to induce & bring—the first day of November, in the year one thousand, eight hundred & thirty two, at the county aforesaid, (and having discourse then and there with divers persons of & concerning the said ~~Ann~~ Eliza these false, feigned, and scandalous English words, in substance as follows, of and concerning the said Eliza Ann Winters, in the [illegible words] hearing of those persons, falsely & unjustly did say, speak, and with a loud voice proclaim & publish to wit, “She” (the said Ann Eliza Winters¹¹ [illegible]) has had a bastard child,” by means of the speaking and publishing of which said false and scandalous words, the said Ann Eliza Winters ~~not only~~ in her good name and fame aforesaid is grievously hurt and injured. To the damage of the said Ann Eliza Winters of one thousand dollars. And therefore she brings her suit, &c.

Pledges &c. John Doe &
Richard Roe

B.T. Case, plfts. atty.

No 39
Feb 7, 1833
Eliza Ann Winters
By her next friend
Benjⁿ Comfort
vs
Martin Harris
Affidavit of Deps
Filed April 30th
1833—

11. It is unclear why the affidavit states her name as both Ann Eliza and Eliza Ann.

Eliza Ann Winters by her
next friend Benjamin Comfort

Com pleas
Susqu Cty
Cases

Vs.

Martin Harris

Martin Harris the above named Defendant being duly affirmed says that he has understood from ~~the~~ Benjamin Comfort the next friend of the Plaintiff in this case, and believes that the said Benjamin Comfort and also the said Eliza Ann Winters the above named Plaintiff both reside above five miles from New Town in the State of New York —

Martin Harris

Subscribed & affirmed
In Open Court 30th April 1833
Asa Dimock Prot

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